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Board Corner

By Lorena Erickson

What an honor for me to address the nurses of the State of Montana. I am a public member of the Nursing Board and have much admiration and respect for all nurses. Thank you for your compassion and thoughtfulness toward your patients.

Working with the Board of Nursing has been such a rewarding experience for me. I am always impressed with the total dissection of each item brought before the board. It is assessed, analyzed and evaluated, then more discussion evolves from that. I know of no other group that has been more thorough or more caring.

I recently attended a meeting in Seattle of the Citizens Advocacy Center. There were so many areas covered involving the health care field and, guess what? Montana is doing okay. Our NAP program is much better than some of the other states, however, we must continue to improve and possibly consider adding mental health issues to the program. Workplace and working conditions can contribute to medical errors and discussions were held regarding this issue. Some states are advocating physician and nurse profiling. I don't know if we need to go that far, but it seems to be the trend. Some action is being taken in various states to license CNAs, and I am not so sure that we shouldn't be considering doing the same. Our nursing education programs are turning out very qualified nurses, but we are also facing nursing shortages, as is every state. All in all, I am very proud of all our nurses and the job you are doing. I am also very grateful that I have been afforded this opportunity to serve the citizens of the state of Montana. Thank you.

Prescriptive Authority



The Prescriptive Authority Committee continues its effort to address compliance with the Quality Assurance component of 8.32.1508. The Committee has been working on this issue for more than a year, and several individuals have called, written, emailed and faxed comments to the Committee. Updates will be reported in future newsletters.

BOARD MEMBERS

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Tanya Fiske, Licensing Specialist
Lori Ballinger, Prosecuting Attorney
Lon Mitchell, Board Counsel
Ron Burns, Investigator

Board Member Dschaak Serves as Test Item Reviewer

Sharon Dschaak LPN, of Wolf Point was selected by the National Council of State Boards of Nursing (NCSBN) to participate in reviewing test items for the NCLEX LPN exam. Ms. Dschaak will serve as a review panel member along with other nurses from the United States during the spring review session. Ms. Dschaak is on the Nursing Education and Practice Committees of the Board. Her professional position is with Northeast Montana Health Services, where she is the Staff Development and Utilization Review Manager.

This opportunity is open to all practicing nurses. If you are interested in contributing to the NCLEX-RN or NCLEX-PN, visit the National Council for State Boards of Nursing website: www.ncsbn.org. From that menu, you can choose "NCLEX Examination", and one of the choices is a guide to participation and application.

Your participation may be in one of three panels:

- 1) Item Writers: writing questions in collaboration with the testing service
- 2) Item Reviewers: reviewing questions and answers submitted by item writers
- 3) Panel of Judges: recommending the passing standard to the NCSBN Board of Directors

As an item reviewer, you will receive over 30 contact hours of continuing education, and all of your expenses will be paid by NCSBN. Individuals who have participated feel the experience is a positive addition to their resumes as well as an opportunity to meet and network with nurses nationwide.



Declaratory Ruling Update

The Nurse's Role in Clinical Laboratory Tests

The Board of Clinical Laboratory Science Practitioners petitioned the Board of Nursing for a declaratory ruling on whether a registered nurse may perform a CLIA unwaived test. Regulatory boards frequently discuss what tasks fall within their respective scopes of practice and other professional scopes of practice. Sometimes a declarator hearing is necessary to make final determinations. The Board held a public hearing to receive written and oral testimony on the issue on Thursday, October 5, 2000. Board deliberations occurred at the November meeting. The Board determined at that time that performing unwaived laboratory tests is within the scope of practice of a registered nurse in Montana. As with any task or procedure, the nurse is responsible for attaining and maintaining competency in the task or procedure performed.



Practicing without a License

In Montana, every nurse is responsible for his/her own license. Montana statute provides title protection for nurses. This means that any person holding himself or herself out to the public as a nurse must hold a current, active Montana nursing license. Employers are responsible for checking the status of each licensee, but the ultimate responsibility for maintaining a current license lies with the licensee. If you continue to work after the first of each calendar year without a valid, current license, you will experience the board's disciplinary process and penalties may include a reportable fine.

Recent Board Meeting Actions

November 2000

- ✓ Determined by declaratory ruling that performing unwaived CLIA tests is within the scope of practice of a registered nurse. The RN is responsible for being competent and maintaining competency in these tasks.
- ✓ Stated that it is not within the scope of practice of an LPN to suture. The skills needed for this task are not consistent with LPN education or practice.
- ✓ Determined that advisory statements issued or adopted by the Board of Nursing will serve as guidelines to practice. If a definitive and binding statement is desired, a declaratory ruling is required.
- ✓ Determined that it is in the scope of practice for a registered nurse with the appropriate skills and training to place an umbilical line in a neonate. The RN is responsible for maintaining competency in this task.
- ✓ Approved faculty qualifications for schools of nursing.
- ✓ Accepted annual reports from schools of nursing.
- ✓ Decided to become part of the NURSIS National Council of State Boards of Nursing database for licensure and discipline verification. This will expedite the verification process for nurses who apply for licensure in another state.

Stipulations and Final Orders

Amy Nichols RN21368	2 years probation
Kathryn Fulcher RN17516	3 years probation and CE
Vivian McCormick RN10366	Fine
Antoinette Michel RN23781	Fine
Peggy O'Neil RN23687	3 years probation and NAP
William Stewart RN7711	Revoked
Patty Sherrodd LPN7789	Revoked
Robert Dartman LPN26356	Revoked
Sir Viris Henry Patzer RN20726	Revoked

**Names and license numbers are published as a means of protecting the public safety, health and welfare. Only Final Orders, which are public information, are published in this newsletter. Pending action against any licensee is not published. Please advise the Board office if any of the above nurses is working outside his/her licensure capacity.*

***Those licensees with Nurses Assistance Program (NAP) listed have been placed on NAP through the formal Board process. Licensee names and information on the Voluntary Track of NAP are confidential, and this information is not available to the public.*

NAP NEWS

Over the past year, the Board of Nursing revised the rules pertaining to the Nurses Assistance Program (NAP). The rules had not been reviewed since the NAP program's inception in 1991; as with any program, periodic review and change is necessary.

The following summary describes the rule changes adopted by the Board of Nursing on January 25, 2001. If you would like the specific rule revision language, please contact the Board office.

1. The NAP is to provide assistance to "Montana nurses whose competency may be impaired due to the abuse of drugs or alcohol." The previous language did not speak to the effect of the alcohol and/or drug use on nursing practice.
2. Over the years, questions arose regarding the need for a formal complaint to the Board when a person self reports. The new language encourages self-reporting to the NAP and supports the rehabilitation of nurses. The new rule states "Information that relates to the abuse of addictive drugs, alcohol, or any other drug or substance may be reported by the licensee to the NAP in lieu of reporting to the board."
3. Previous rule language allowed only those licensees who were free of a complaint to the Board to enter the Nondisciplinary Track and remain anonymous to the board. Other nurses were admitted to the Nondisciplinary Track only after a complaint was filed and the board referred them to NAP instead of disciplinary action. The rule change now states "Licensees may be reported directly to the NAP in lieu of a formal complaint to the board."
4. Because entry into the Nondisciplinary Track of NAP can now be done without filing a formal complaint with the board, the Board made the following clarifications on admission criteria.
 - A licensed nurse or previously licensed nurse in Montana
 - A nurse licensed in another state who has applied for a Montana license and is currently in a similar monitoring program in that state

- A licensed nurse without previous disciplinary action from any licensing board or a notice of proposed action or similar notice pending by a licensing board.
- A licensee who had successfully completed the NAP or similar monitoring program in the past
- A licensee is not eligible for admission to the Nondisciplinary NAP if his/her practice involved death or significant harm to a patient or if a licensee diverted controlled substances or caution legend drugs for purposes of sale or distribution

5. The new rules clarify when the NAP is required to report a licensee to the board as it relates to nursing practice

Nurses in the NAP with an active license are able to maintain employment as a nurse while they work on recovery. Currently, the NAP has 50 active participants. The relapse rate for NAP participants remains from 7-10 per cent of enrollment; this is low compared to similar monitoring programs for nurses in the nation. For the year 2000, NAP had 18 admissions, 14 to Nondisciplinary and 4 to Disciplinary. NAP also had 15 successful discharges and 5 unsuccessful discharges.

If you have any questions about the NAP program or if you would like more information, please contact the Board office.

BOARD OF NURSING MEETINGS

- ♦ May 15-18, 2001
- ♦ July 17-20, 2001
- ♦ October 9-12, 2001

Most board meetings are held at the Federal Building, 301 South Park Avenue, Helena MT. Please call for room location. All meetings are open to the public except those in which a licensee's privacy outweighs the public's right to know.

Message from the Executive Director

Renewals

We have made it through the renewal season in record time! Though some mail glitches became critical for those licensees renewing after December 15th, it basically went very well. I wish to thank our staff for doing a wonderful job of carrying out the process and holding up admirably through the peak times.

National Licensure and Disciplinary Data Base

We also are making progress towards participating in the National Council for State Boards of Nursing database, NURSYS, which will allow for on-line license and disciplinary data access for member boards. The process will make verification much more efficient, especially once most, if not all states participate.

Compliance/Discipline

Our compliance program has grown considerably over the past 5 years. About 200 new complaints were filed with the board in the year 2000. This compares to just over 70 in the year 1995. The increase may be due, in part, to better recognition of practice issues, addiction problems, and drug diversion. Also, these trends are being seen throughout the country as the nation focuses on medical errors and the public takes the initiative to report problems as they occur.

While only a small percentage of the complaints result in disciplinary action, it is important for all licensees to know that any concern about practice or other possible violations of the Nurse Practice Act must, by law, be reported to the Board of Nursing. Filing complaints is not the sole responsibility of organizational leaders, though we do encourage leaders active involvement in addressing practice issues prior to reporting them to the board.

Board Members Appreciated

I wish to take this opportunity to thank our Board Members for their hard work and dedication. Their role is often a difficult one and requires a great deal of reading, careful thought, and complex decision making. Every member of your Board takes his/her role very seriously, and for that, I am truly grateful.

Board of Nursing Launches New Web Site

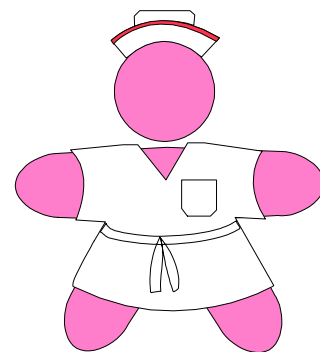
The Professional and Occupational Licensing Division of the Department of Commerce is in the process of updating web sites for all of the Boards in the Department of Commerce. Currently, many of the Board forms and applications are on the web site for you to copy or print. Eventually, you will be able to renew your license on line with credit card payment. The laws, rules relating to nursing practice, and declaratory rulings are on line also.

Nursing Laws & Rules Book

In the past, the Board of Nursing published its laws and rules relating to nursing practice approximately every other year. Unfortunately, the book often was outdated as soon as it was printed. With the Board increasingly active in keeping the rules current, it has become difficult to maintain the book in the bound format. For that reason, the Board office has decided to change the style of the book. The current books are in an 8x11 inch format, and they are three hole punched so that they can be placed in a binder. When rules are changed, you may call the Board office and request an update to the section of the book that has changed. This will eliminate the need to print and distribute new books each time a rule changes. It will also allow you to access a particular section of rules quickly since they are color-coded.

The Board office believes this change will improve everyone's access to current laws, rules and declaratory rulings relating to nursing practice. The same information can be accessed on the Board of Nursing web site at

http://commerce.state.mt.us/LICENSE/pol/pol_boards/nur_board/board_page.htm.



ADDRESS CHANGE? EMPLOYER CHANGE?

Please be sure your address and employer(s) are current with the Montana Board of Nursing.

The board depends on accurate and timely information from licensees to ensure that important communications, including your license renewal forms, reach you!

Address Change

Full Legal Name: _____

License Number: _____ RN or LPN _____

Social Security Number: _____

Address: _____
Street City State Zip Code

Telephone: _____
Home

Employer Change

Employer Name: _____

Address: _____

Telephone: _____
Work

Methods You May Use to Provide the Above Information

FAX: 406-841-2343

E-MAIL: compolnur@state.mt.us

U.S. MAIL: Montana Board of Nursing
PO Box 200513
Helena, MT 59620-0513

PHONE: 406-444-2071 (Press 2)

THE COMPLAINT PROCESS

Once a Complaint is Filed

- A letter requesting a response and copy of the complaint is sent to the person against whom the complaint is filed (Respondent).
- A letter of acknowledgment is sent to the person who filed the complaint (Complainant).
- Respondent submits a letter of response to the complaint. If a letter of response is not submitted, the process continues without the response.
- The respondent and complainant are sent letters regarding the date and time of any meeting where the case will be discussed and then notified of the meeting's outcome.

Then

- The complaint and response goes to the Screening Panel. This is not a hearing, but a committee meeting.
- The Screening Panel has the option of dismissing the complaint, determining reasonable cause (see definitions) or requesting an investigation into the matter.
- The complaint can be closed with or without prejudice (see definitions). The Panel can also decide to send a letter of warning or instruction to the respondent at the time the case is dismissed.
- If an investigation is requested, the case will be assigned to an investigator who will set up appointments with all those involved.
- The Screening Panel meets about every six weeks to consider cases that are ready for the Panel's review.

Next

- Following the review of the written investigation report, the Screening Panel determines if the case should be dismissed or if there is Reasonable Cause to proceed with disciplinary action (see definitions). Again, this is not a hearing, but a committee meeting.
- If the complaint is dismissed, it can be closed with or without prejudice (see definitions).
- If Reasonable Cause is found, the attorney sends a Notice to the Respondent. Once a Notice is issued, it becomes public information and is no longer confidential.
- The Respondent has twenty (20) days in which to request a Hearing, a legal process before a Hearing Examiner (similar to a judge).
- At any time, the Respondent and attorney may work out a Proposed Stipulation to settle the case instead of proceeding with a Hearing (see definitions).
- A Proposed stipulation goes to the Adjudication Panel for approval or rejection. If approved, it becomes a Final Order.
- If the Respondent does not respond within the 20 days, a Default order is issued and the Adjudication Panel will decide what the final outcome will be.

Definitions

- **Respondent** - The person against whom a complaint has been filed.
- **Complainant** - The person who filed the complaint.
- **Close with prejudice** - The case is dismissed and can never be opened up again.
- **Close without prejudice** - The case is dismissed but can be considered again if there is another complaint of a similar nature.
- **Investigation** - Searching for the facts surrounding the allegations.
- **Letter of warning** - A warning given at the time a complaint is dismissed, putting the respondent on notice that further actions similar to those in the complaint could lead to reasonable cause.
- **Reasonable Cause** - A finding by the Screening Panel that there is enough evidence of a violation of the statutes and rules governing the practice to proceed with disciplinary action.
- **Notice** - Legal document received from the attorney setting forth the Department's factual assertions, the statutes or rules relied upon and advising the licensee of the right to a hearing.
- **Proposed Stipulation** - Tentative agreement for settlement of the case to be presented to the Adjudication Panel.
- **Screening Panel** - Made up of members of the Board of Nursing. Determines the preliminary actions taken on a complaint. Currently, there are four members on the Panel.
- **Adjudication Panel** - Made up of Board of Nursing members NOT on the Screening Panel. Determines outcome of a case.

Meetings

- The Respondent and Complainant are notified by letter of the dates and times of meetings in which their case will be reviewed and will need to respond regarding attendance.
- At the beginning of each Screening Panel meeting, the members take a few minutes to review any new materials. The meeting begins as Open meetings and then usually become Closed.
- **Open Meeting** - A public meeting, anyone can attend and minutes are distributed as a public document.
- **Closed Meeting** - Not a public meeting, only the Respondent, Complainant and/or attorney for both parties can attend. Minutes are not a public document.
- Attendees can observe the Panel discussion but not participate. Attendees may answer questions if asked.
- The Panel considers the cases of those in attendance first to try to minimize the wait.

For questions or concerns, call the Board of Nursing office at **406-444-2071**, fax at **406-841-2343** or e-mail to **compolnur@state.mt.us**

License Verification Fee Increase

At the November 2000 Board meeting, the Board of Nursing decided to join the National Council of State Boards of Nursing licensure verification system. Verification is a process that boards of nursing use to check education, discipline and testing when a nurse seeks a license in another state. NURSIS is an online system to verify nursing licensure, and it is currently utilized by seven states.

The fee for using the service is \$30 each time a state accesses it. This fee will be in addition to the \$25 fee that the Montana State Board of Nursing charges. If you plan to seek licensure in another state, contact the Board of Nursing office for the forms required to verify your Montana license.



Returned Checks

If your check is returned for non-sufficient funds, the following actions may be taken by the board office:

- the board office will contact you and inform you that we must receive a money order or cashier's check within 10 calendar days
- if the money order or cashier's check is not received in the office within 10 days, we will
 - assess an additional \$20.00 administrative fee for your renewal
 - contact your employer, if you are working, to inform them that you are working without a valid, current license (this may be done for late renewals as well as checks returned for insufficient funds)
 - if you are employed in nursing, submit your file to the Screening Panel (the board's disciplinary panel)
 - assess a monetary fine and/or other recommended action upon order of the Screening Panel for unlicensed nursing practice.

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